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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,176	06/26/2003	Marc E. Meffe	H0004210	8222
128	7590	11/28/2006	EXAMINER	
HONEYWELL INTERNATIONAL INC. 101 COLUMBIA ROAD P O BOX 2245 MORRISTOWN, NJ 07962-2245			LUONG, VINH	
			ART UNIT	PAPER NUMBER
			3682	

DATE MAILED: 11/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/608,176

Applicant(s)

MEFFE ET AL.

Examiner

Vinh T. Luong

Art Unit

3682

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 November 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☒ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-5 and 7-24.
Claim(s) withdrawn from consideration: 6,25 and 26.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: See Continuation Sheet.


Vinh T. Luong
Primary Examiner

Continuation of 3. NOTE: The proposed drawing corrections raise the issue of new matter. For example, the original disclosure did not disclose that the grease forms a thin layer totally surrounding the balls 310 as now shown in Fig. 3. Since the original record did not describe as to how the grease/lubrication lubricates the bearing, therefore, the grease/lubrication might form a thin layer as shown in Fig. 6 of US Pub. No. 2002/0191878 A1, or as a chamber as shown in the single figure of US Patent No. 4,541,740, or as a chamber 15 as shown in US Patent No. 1,986,621, or as a film partially surrounding the balls as shown in US Patent No. 3,001,837 and US Patent No. 2,991,133, etc. After the filing date, Applicant's specific showing of the grease totally surrounding the balls 310 within a full spectrum of possible ways for the grease to lubricate the ball bearings is considered under the present disclosure to be new matter. Cf., In re Smith, 173 USPQ 679 (CCPA 1972) and Ex parte George, 230 USPQ 575, 578 (Bd. Pat. App. & Inter. 1986). In other words, the concept that the grease totally surrounds the ball 310 as a thin layer as now shown was not present in the original disclosure, thus, it raises the issue of new matter. In re Anderson, 176 USPQ 331 (CCPA 1973).

Continuation of 11.

See the rejections set forth in the final rejection on September 7, 2006.

In addition, Applicant contended, inter alia, that Applicant's specification defines momentum control devices as devices used to controllably impart torque commonly used on space vehicles for altitude control. As noted in MPEP 2111, during patent examination, claims are given their broadest reasonable interpretation consistent with the specification. It is proper to use the specification to interpret what the applicant meant by a word or phrase recited in the claim. However, it is not proper to read limitations appearing in the specification into the claim when these limitations are not recited in the claim. See In re Paulsen, 30 F.3d 1475, 1480, 31 USPQ2d 1671, 1674 (Fed. Cir. 1994); and Intervet America Inc. v. Kee Vet Lab. Inc., 887 F.2d 1050, 1053, 12 USPQ2d 1474, 1476 (Fed. Cir. 1989).

In the instant case, Applicant's claims do not call for patentably distinguishing structures of the spacecraft, reaction wheels, and gyroscopes, etc. over the prior art's devices. Thus, Applicant's arguments regarding the spacecraft, reaction wheels, and gyroscopes, etc. are unpersuasive. On the other hand, Perni's device is capable of being rotated. Therefore, Perni's device is capable of being subjected to a momentum, i.e., it can controllably impart momentum as explained by standard physics textbook attached to previous Office action. Consequently, Perni's device "reads on" the momentum control device. Similarly, the other cited references in the rejection can or capable of controlling the impart momentum as evidenced by standard physics textbook. The final rejection is, therefore, respectfully maintained.

Continuation of 13. Other: the references that teach examples of various lubrication systems of the ball bearings by the grease are cited in Form PTO-948 attached.



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